

## **REMARKS**

The Office Action mailed June 19, 2009 has been received and the Examiner's comments carefully reviewed. Claim 1 has been amended. No new subject matter has been added. Claims 49-51 have been cancelled. Claims 1-48 are currently pending. Applicants respectfully submit that the pending claims are in condition for allowance.

### **Rejections Under 35 U.S.C. §103**

I. Claims 1-4 are rejected under 35 U.S.C. §103(a) as being unpatentable over Ronning et al. (U.S. Patent 4,683,132) in view of Martens, et al. (GB 2,039,740). Applicants respectfully traverse this rejection.

Claim 1 recites packaging means for retaining and releasing a vapour active pyrethroid composition. The Office Action appears to utilize Ronning for the teaching of insect control and utilize Martens for the teaching of the recited packaging structure.

Without acquiescing to the asserted teachings of Ronning, it is respectfully submitted that Martens does not teach the recited packaging structure of claim 1.

The packaging means of claim 1 requires a holder having a top, a base, and a longitudinal member that supports the top and the base in a spaced-apart relationship. Claim 1 also requires a honeycomb-configured substrate that is attached to the top and the base of the holder.

In the Office Action, Martens is described as disclosing a honeycomb configuration. In a telephone conference of August 14, 2009, the Examiner clarified that the carrier structure 56 of FIG. 6 in Martens is being characterized as a holder having a top, a base and a longitudinal member. The Examiner is thanked for this clarification.

Martens discloses a vapor dispensing device that includes the carrier structure 56 and an enclosure formed of flexible sheet stock 12. The carrier structure 56 provides strength, dimensional stability, and crush resistance to the enclosure formed of flexible sheet stock 12. Page 3 at lines 40-44; page 4 at lines 25-29. The carrier structure 56 is further impregnated with a vaporizable composition. Openings 18 are provided in the enclosure 12 through which the vaporizable composition of the carrier structure 56 is dispensed.

It is respectfully submitted that Martens does not teach or suggest a honeycomb-configured substrate that attaches to a top and a bottom of the carrier structure 56. Martens instead discloses an enclosure 12 that is “formed out of flexible sheet stock and include[es] two upstanding opposed primary walls each defining dispensing openings.” Page 1 at lines 111-115. While Martens discloses that a carrier structure can include a honeycomb configuration (page 4 at lines 19-23), there is no teaching or suggestion that the enclosure 12 can be of a honeycomb configuration.

Claim 1 also requires that the honeycomb-configured substrate attached to the holder comprise a vapour active pyrethroid. While Martens discloses that the enclosure 12 is supported by the carrier structure 56, it is respectfully submitted that Martens does not teach or suggest that the vaporizable composition is provided on the enclosure 12, as required by claim 1. The vaporizable composition is instead provided on the “holder” 56, not the enclosure 12. Martens further teaches away from providing the vaporizable composition on the enclosure 12, as Martens teaches that the vapor composition must be to some extent shielded from ambient air flow (i.e., by the enclosure) to retard vaporization. Page 3 at lines 54-61.

At least for these reasons, it is respectfully submitted that independent claim 1, and dependent claims 2-4 are patentable.

II. Claims 19-21, 26-33, 39 and 44 are rejected under 35 U.S.C. §103(a) as being unpatentable over Ronning et al. in view of Martens, et al. and further in view of Thornton et al. (U.S. Patent 3,790,081). Claims 22-24, 37, 38 and 40 are rejected under 35 U.S.C. §103(a) as being unpatentable over Ronning et al. in view of Martens, et al. and further in view of Spector (U.S. Patent 4,523,870). Claims 25 and 34-36 are rejected under 35 U.S.C. §103(a) as being unpatentable over Ronning et al. in view of Martens, et al. and further in view of Furner et al. (U.S. Patent 6,569,387). Claims 41-43 are rejected under 35 U.S.C. §103(a) as being unpatentable over Ronning et al. in view of Martens, et al. and further in view of Harden (U.S. Patent 4,512,933). Claim 45 is rejected under 35 U.S.C. §103(a) as being unpatentable over Ronning et al. in view of Martens, et al. and further in view of Thornton et al. and Harden. Claims 46 and 47 are rejected under 35 U.S.C. §103(a) as being unpatentable over Ronning et al. in view of Martens, et al. and

further in view of Harden and Meetze, Jr. (U.S. Patent 4,063,664). Claim 48 is rejected under 35 U.S.C. §103(a) as being unpatentable over Ronning et al. in view of Martens, et al. and further in view of Hayes et al. (U.S. Patent 5,899,382).

Claims 19-48 depend upon claim 1. In view of the remarks regarding independent claim 1, further discussion regarding the independent patentability of dependent claims 19-48 is believed to be unnecessary. Applicants submit that dependent claims 19-48 are in condition for allowance.

### **Double Patenting**

Claims 1 and 5-18 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 6-11, 41, 42 and 49 of co-pending Application No. 10/578,282.

Applicants respectfully traverse this rejection and note that claims 1, 6-11, 41, 42 of co-pending Application No. 10/578,282 do not recite the structural limitations of the holder in claim 1. For example, none of claims 1, 6-11, 41, and 42 recites a holder having a longitudinal member that spaces apart a top and a base. Reconsideration of this double patenting rejection is respectfully requested.

Nonetheless, Applicants wish to defer the filing of a Terminal Disclaimer until such time that co-pending Application No. 10/578,282 has been patented, and/or until such time that all of the claims of the present application are otherwise in condition for allowance.

### **SUMMARY**

It is respectfully submitted that each of the presently pending claims (claims 1-48) is in condition for allowance and notification to that effect is requested. The Examiner is invited to contact Applicants' representative at the below-listed telephone number if it is believed that prosecution of this application may be assisted thereby.

Although certain arguments regarding patentability are set forth herein, there may be other arguments and reasons why the claimed invention is patentably distinct. Applicants reserve the right to raise these arguments in the future.

Respectfully submitted,



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A handwritten signature in dark ink, appearing to read "Karen A. Fitzsimmons". The signature is written in a cursive, flowing style and is positioned above a horizontal line.

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